

Memorandum

City of Lawrence

Planning and Development Services

TO: David L. Corliss, City Manager

CC: Dianne Stoddard, Assistant City Manager
Cynthia Wagner, Assistant City Manager
Scott McCullough, Planning and Development Services Director

FROM: Mary Miller, Planner

Date: For July 26, 2011 City Commission meeting

**RE: Conditions of Approval for SP-12-62-10; Dillons at 1740
Massachusetts Street**

The site plan and associated use of right-of-way requests for the redevelopment of the Dillons site at 1740 Massachusetts Street were considered by the City Commission on April 26, 2011 with staff recommendation for approval of the right-of-way requests and confirmation of the Planning Director's administrative approval of the site plan. The City Commission took the actions noted below. The applicant provided revised site plans and revised elevations to address the conditions of approval and the City Commission's recommendations and these items have been placed on the City Commission agenda for approval. The City Commission's actions are listed below, with staff comments on the status of the condition or recommendation in **bold**.

MASSACHUSETTS STREET USE OF RIGHT-OF WAY REQUEST

The Commission voted 5-0 to approve the request for use of the Massachusetts Street right-of-way as shown on site plan SP-12-62-10 subject to the following conditions:

1. The final location of the decorative bollards subject to City Engineer approval.
2. Execution and recording of a use of right-of-way agreement prior to the release of the site plan for building permits.

NEW HAMPSHIRE STREET USE OF RIGHT-OF-WAY REQUEST

The Commission voted 4-1¹ to approve the request for use of the New Hampshire Street right-of-way as shown on the site plan SP-12-62-10 subject to the following condition:

1. Execution and recording of a use of right-of-way agreement prior to the release of the site plan for building permits.

¹ Note: In a subsequent meeting of the city commission, May 3, 2011, Vice Mayor Schumm commented for the record that he mistakenly voted in favor of the motion to grant the use of the right-of-way for the drive-through pharmacy on New Hampshire Street. He intended to vote in opposition of the motion. The motion would have passed 3-2 had the vote occurred the way Vice Mayor Schumm intended.

SIDEWALK DINING APPLICATION

The Commission voted 5-0 to approve the sidewalk dining application on Massachusetts Street as shown on site plan SP-12-62-10 subject to the following conditions:

1. Provision of an approved sidewalk dining license from the City prior to occupying the public right-of-way per Chapter 6-1202. This includes the submission of a copy of State of Kansas Food Services Establishment License.
2. Execution of an agreement with the City of Lawrence for use of the right-of-way per Chapter 6-12.

Right-of-way license agreements will be executed prior to the release of the site plan for building permits.

SITE PLAN SP-12-62-10

The Commission voted 5-0 to affirm the Administrative Approval of the site plan SP-12-62-10 as conditioned below. Staff comments are in bold.

City Commission Approved Conditions for SP-12-62-10:

1. Provision of an executed site plan performance agreement. **Agreement shall be executed prior to release of site plan for building permits.**
2. City Commission approval of the associated sidewalk dining and use of right-of-way requests. **City Commission approved these requests at the April 26th meeting.**
3. City Commission affirmation of the Planning Director's approval of the site plan with conditions. **Revised site plan and elevations are before the Commission for approval.**
4. Use of right-of-way agreements for the use of the Massachusetts and New Hampshire Streets right-of-way, including street furniture, sidewalk dining, all constructed elements related to the drive-through pharmacy, the bio-swale, etc., shall be executed and recorded prior to the release of the plan for building permits. **License agreements for the use of right-of-ways shall be executed prior to release of site plan for building permits.**
5. Public Improvement Plans shall be submitted and approved prior to the release of the plan for building permits. **Public Improvement Plans have been submitted and shall be approved prior to release of site plan for building permits.**
6. The applicant shall contact the U.S. Postal Service to arrange the removal of the mailboxes on Massachusetts Street. **Applicant is working with USPS regarding the removal of the mailboxes. This must be completed prior to the release of the site plan for building permits.**
7. Dillon's has offered to donate \$40,000 to be used for traffic calming measures on 18th, 17th Terrace or New Hampshire if the traffic calming measures are agreed upon by the City and the neighborhood. Therefore, it shall be a condition of site plan approval that \$40,000 be provided to the city at time of building permit issuance. The city shall work diligently with the Barker Neighborhood Association to determine the best traffic calming measures and locations. If a traffic calming project is not developed within 12 months of the date of the certificate of occupancy for the Dillon's store, then the \$40,000 will be returned to Dillon's and Dillon's shall have no responsibility to participate in future traffic

calming projects in the area as it relates to this development project. **Required at time of building permit issuance.**

8. Prior to occupancy of the store, the city, Dillon's and neighbors shall work to devise a parking plan for on-street vehicular parking on New Hampshire Street related to semi-trucks accessing the loading docks. Removal and addition of parking spaces in the right-of-way may be necessary to accommodate semi-truck movement to the loading docks. **Required prior to occupancy.**
9. Applicant shall provide a revised site plan that includes the following notes and changes:
 - A. LANDSCAPING
 - i. The landscape calculations shall be revised to list the required street tree ratio correctly as 1 tree per '40' ft of street frontage and the required number of street trees noted per street frontage: Massachusetts Street (530 ft) – 14 trees and New Hampshire Street (370 ft) – 9 trees with a note that the City Horticulture Manager recommended 12 trees on Massachusetts Street due to driveway placement and sight distance. The plan should also note that 12 street trees are provided on Massachusetts and 9 are provided on New Hampshire Street. **CONDITION MET**
 - ii. The following note shall be added to Sheet L1.1: *"All interior parking lot landscaping areas shall be planted with turf, ground cover, ornamental trees, or shrubs in addition to the required landscaping."* **CONDITION MET**
 - iii. The interior parking lot landscaping revised to include 3 shrubs per each tree, placed on approximately 5 ft centers. **CONDITION MET**
 - iv. The plan and legend shall be revised to reflect the landscaping approved through Alternative Compliance with the species recommended by the City Horticulture Manager. **CONDITION MET**
 - v. The plan shall note that the Planning Director approved the parking lot and bufferyard landscaping shown on the plan through Alternative Compliance. **CONDITION MET**
 - vi. The following note shall be added to the plan: *"All mechanical equipment shall be roof-mounted. Per Section 20-1006, mechanical equipment shall be fully screened from view of adjacent properties and from street rights-of-way (as measured 6 ft above ground level). Screening shall be in the form of an architectural treatment compatible with the architecture of the building."* **CONDITION MET**
 - vii. A 3 ft high architecturally compatible wall shall be shown along the perimeter of the parking lot adjacent to New Hampshire Street and set back 1.5 ft from the curb of the parking lot. Day Lilies and/or feather-reed grasses shall be shown along the street side of the fence. The wall shall be approximately 6" off the ground to permit storm water flow. **CONDITION MET**
 - viii. Additional landscaping, in the numbers approved through Alternative Compliance, shall be provided along the New Hampshire Street frontage, with water tolerant plants in the bio-swale and yews and other shade tolerant shrubs and ornamental plants along the pharmacy drive thru. (see alternative compliance memo) **CONDITION MET**
 - ix. The street trees to the north and south of the Massachusetts Street north access point (2 trees) shall be located on the east side of the walk where more space is available. The trees must be planted at least 8 ft from the utility lines in this area. **CONDITION MET**

B. SITE PLAN:

- i. Addition of the following note: *"The BZA acted on January 6, 2011 to approve a variance from the landscaping requirements to allow Alternative Compliance and on Feb 3, 2011 to allow 129 parking spaces and 0-foot setbacks on New Hampshire and Massachusetts Streets."* **CONDITION MET**
- ii. The 3 ft. wide pedestrian walkway connecting Babcock Place to the store entrance shall be increased to 5 ft. To accommodate this, the trees in this bufferyard shall be planted further to the east, while maintaining separation, as approved by the Utilities Department, from the sanitary sewer line. **CONDITION MET, Due to the required separation from the sanitary sewer line, the vegetation could not be moved further to the east. Narrower species were utilized to prevent crowding of the sidewalk.**
- iii. Addition of the following note regarding the design of the restricted access on New Hampshire Street shall be added to the plan: *"The restricted access located on New Hampshire Street between the pharmacy entrance-only point and the north entrance-only point and including mountable curbing and grass pavers shall only be used for emergency personnel, when necessary, and for semi-truck deliveries in the very rare occasion that the surrounding city street system prevents semi-trucks from reaching the New Hampshire Street loading docks. A physical structure approved by the Fire Department, such as removable bollards, a gate with an opti-com system, or 2-3 small removable directional signs pointing to the exit shall be installed at or near the property line that permits emergency personnel and the occasional semi-truck, but that otherwise prevents patron vehicular access at this location. The grass pavers on and off site shall be maintained by the property owner in a healthy, aesthetically pleasing fashion at all times."* **CONDITION MET. The site plan has been revised to provide bollards with construction of the project and the note has been revised. In addition, the grass pavers have been changed to a system of stabilized grass (engineered substructure with grass on top) in order to provide better assurance that the grass will remain healthy and aesthetically pleasing.**
- iv. Plan Sheet CD1, and other applicable sheets, shall be revised to show the correct location of the sanitary sewer service line, per the approval of the City Utilities Engineer. **CONDITION MET**
- v. The height of the retaining wall in the New Hampshire Street right-of-way adjacent to the pharmacy drive-through lane shall be noted on the plan. **CONDITION MET. Wall height increased to 5 ft at drive through to screen cars.**
- vi. The plan may be revised to eliminate the raised pavement in the main access drive, but the pavement markings shall remain. **CONDITION MET**
- vii. Show 'Do Not Enter' signs at each side of the entrance-only access from New Hampshire as well as the pharmacy drive thru-lane exit point. **CONDITION MET**
- viii. Addition of the following note: *"Pallets, bakery racks, and other items associated with the operation of the store are to be stored within the fenced enclosure on the south side of the building. Storage of any such items shall not be permitted outside of the fenced area."* **CONDITION MET**

- ix. Note that the fenced storage area on the south side of the building will be enclosed by an 8 ft. high view-obscuring cmu wall, except that different material may be used across the sewer easement for ease of access to the sewer as long as it is architecturally compatible with the building (no chain link or slatted fencing). **CONDITION MET ON DETAIL SHEET. Change must be made to site plan before release for building permits.**
- x. Additional bicycle parking (5-bike minimum) shall be provided on the north side of the building near the main entrance. **CONDITION MET**
- xi. All code required perimeter light levels shall be achieved to not exceed one (1) foot candle at the property line, where necessary per code, except that lighting levels at the pharmacy drive-through may exceed this threshold by installing only one ceiling mounted fixture in the canopy that is tilted toward the building wall. The bulb in the canopy fixture shall not be visible and the light level at the adjacent New Hampshire Street west curb line shall be zero foot candles. **CONDITION MET.**
- xii. To minimize the loss of the originally proposed windows on the west façade, and to create an active façade on the west that faces Massachusetts Street and on the south for vehicular travelers traveling north on Massachusetts Street, the southwest corner of the elevation drawings shall be revised and approved by the Architectural Review Committee of the Historic Resources Commission prior to the release of the site plan for building permits. **CONDITION MET- Additional architectural feature was added to the southwest corner which was approved by the ARC.**
- xiii. The site plan, including elevations, shall be reviewed and approved by the City Commission after the applicable conditions of approval are met and prior to the release of the site plan for building permits. **The revised site plan and revised elevations have been placed on the City Commission agenda for consideration.**

CITY COMMISSION RECOMMENDED REVISIONS:

- A. Design a pharmacy drive-thru screening wall to a height that will effectively screen the drive-thru lane from New Hampshire -perhaps in combination with shrubs and other plantings. **Change has been made. The height of the wall was increased to 5 ft to effectively screen cars.**
- B. Enhance the southwest corner of the building to match the architectural quality of the northwest corner. **Change has been made to the southwest corner of the building which was approved by the ARC.**
- C. Include removable bollards along the drive-thru lane to block turning movements onto New Hampshire Street. **Change has been made.**
- D. The Commissioners doubted that the grass pavers would result in quality landscaping. Redesign the pedestrian walkway where it crosses the drive-thru lane to increase visibility. **Change has been made. The applicant proposes to use a stabilized grass surface. Information on the product they plan to use is included in the packet.**

OTHER COMMENTS FORWARDED TO THE APPLICANT AFTER THE APRIL 26, 2011 COMMISSION MEETING:

The Commission discussed the truck turning movements on New Hampshire Street and exhibits should be provided showing how the NH street east curbing may need to be altered to accommodate the truck movements so we can show them the options which are being considered. Also, an exhibit showing the overall effect of parking on NH should be provided. What is the gain/loss considering the new curbing along the west side if parking on the east side must be prohibited? **Exhibits were provided and are included in the packet. Four parking spaces will need to be removed from New Hampshire to accommodate the trucks.**

The City Horticulture Manager made recommendations on plant species when assisting with the Alternative Compliance review and I will have a marked up landscape plan with her recommendations ready shortly. City legal staff is drafting the use of right-of-way agreements and I will provide a copy to you when they are available. **Landscape changes were made and right-of-way agreements will be executed prior to release of site plan for building permits.**

Public Improvement Plans are submitted to the City Engineer, Shoeb Uddin, in our Public Works Department. If you have any questions regarding Public Improvement Plans, please contact Shoeb at 785-832-3130. Building permit applications are processed through the Development Services side of our department. Information is available on our website at www.lawrenceks.org/pds. If you have questions regarding the building permit process, please contact Development Services Staff at 785-832-7700. **Public Improvement Plans and Construction Plans have been submitted.**

SUMMARY

Most of the conditions needed to be met prior to releasing the site plan for building permits have been met. Staff recommends accepting the revised site plan, including the elevations, which will permit staff and applicant to continue to move forward on the project.